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Trustee Services, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

IVAN HOOKER AND KATHERINE HOOKER,

Plaintiffs,

v.

NORTHWEST TRUSTEE SERVICES, INC.;
BANK OF AMERICA, NA; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC.,

Defendants.

No. 10-CV-03111-PA

Jackson Co. Circuit Ct. No. 104576E3

**STIPULATED JUDGMENT
DISMISSING DEFENDANT
NORTHWEST TRUSTEE SERVICES,
INC.**

1.

Defendant, Northwest Trustee Services, Inc. ("NWTS"), by and through its attorneys of record Routh Crabtree Olsen, P.C. and Teresa M. Shill, and the plaintiffs, Ivan Hooker and Katherine Hooker (hereinafter collectively the "Plaintiffs"), by and through their attorney James J. Stout hereby stipulate to this limited judgment as to NWTS as follows:

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STIPULATED JUDGMENT DISMISSING DEFENDANT
NORTHWEST TRUSTEE SERVICES, INC. - Page 1 of 5

STIPULATION:

2.

On May 7, 2010, an Assignment of Deed of Trust was recorded in the public real property records of Jackson County Oregon as instrument 2010-014400 (“ADOT”). The ADOT, executed by co-defendant, Mortgage Electronic Registration Systems, Inc. (“MERS”), purported to conveyed all the beneficial interest in the Deed of Trust dated November 17, 2005, granted by Plaintiffs herein for the benefit of MERS solely as nominee for Lender GN Mortgage, LLC, its successors and assigns, and recorded on November 23, 2005, as instrument number 2005-071547 (“Deed of Trust”), to the co-defendant herein, Bank of America, National Association. The Deed of Trust encumbers the real property subject to this action and commonly known as 1380 Daisy Creek Road, Jacksonville, Oregon 97530 (“Property”).

3.

On May 7, 2010, an Appointment of Successor Trustee was recorded in the public real property records as instrument number 2010-014401, whereby MERS appointed NWTs the successor trustee of the Deed of Trust.

4.

On May 7, 2010, upon instructions from the servicer and/or beneficiary of the Deed of Trust, NWTs recorded the Notice of Default and Election to Sell as instrument number 2010-014402, setting the trustee’s foreclosure sale of the Property for September 10, 2010 (the “NODES”).

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5.

On September 8, 2010, Plaintiffs filed their Complaint in the Jackson County Circuit Court Case No. 104576E3.

6.

Plaintiffs allege in the Complaint, P. 3, ¶ 5, that MERS had no authority or right to assign the Deed of Trust. Plaintiffs further allege in their Complaint, P. 4, Line(s) 9-21, that MERS had no authority to appoint NWTs the successor trustee of the Deed of Trust after it had transferred all of the beneficial rights under the Deed of Trust to co-defendant Bank of America, National Association. Therefore, NWTs had no right or authority to foreclose. Co-defendants MERS and Bank of America, National Association, have appeared to defend against Plaintiffs' allegations.

7.

Subsequent to the filing of the Complaint and on September 20, 2010, NWTs recorded a Rescission of Notice of Default as instrument number 2010-031346, thereby rescinding and cancelling the NODES.

8.

On September 20, 2010, a second Appointment of Successor Trustee was recorded in the public real property records as instrument number 2010-031347, whereby Wells Fargo Bank, N.A. as attorney in fact for Bank of America, National Association appointed NWTs the successor trustee of the Deed of Trust. Thereafter on that same day, NWTs recorded a Notice of Default and Election to Sell as instrument number 2010-031348, setting the trustee's foreclosure sale of the Property for January 25, 2011.

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9.

Accordingly in the interest of economy, without admitting any wrongdoing or any violation of law, NWTS takes no position concerning Plaintiffs' allegations against its co-defendants herein, and NWTS hereby agrees and stipulates to be bound by the eventual Order or determination of the Court effecting whether NWTS may foreclose the Deed of Trust against the Property or not.

10.

Plaintiffs and NWTS hereby stipulate and agree that based upon the Stipulations contained in ¶¶ 2-9 above, NWTS should be dismissed from this action without prejudice and without an award of attorneys' fees or costs against it or against the Plaintiffs.

JUDGMENT:

11.

The Court having reviewed the records, files, and the stipulations of the parties herein, being fully advised in the premise, and finding good cause exists so that this Stipulated Judgment of Dismissal as to defendant NWTS may be entered in resolution of all matters raised in Plaintiffs' Complaint against NWTS, it is hereby

12.

ORDERED that judgment on Plaintiffs' Complaint be entered against NWTS as follows:

- (a) That all claims against NWTS shall be and are hereby dismissed without prejudice and without an award of attorneys' fees or costs to or against either party; and

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(b) That NWTS shall be and is hereby ordered to comply with, and to be bound by the eventual Order or determination of the Court effecting whether NWTS may foreclose the Deed of Trust against the Property or not.

DATED this _____ day of _____, 2010.

Honorable Owen M. Panner

So Stipulated to by:

ROUTH CRABTREE OLSEN, P.C.

By /s/ Teresa M. Shill
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Dated: 10/14/10

and

JAMES J. STOUT, P.C.

By /s/ James J. Stout
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Dated: 10/14/10